

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suede G. Kelly.

Wisconsin Public Service Corp. Upper Peninsula Power Co. WPS Energy Services, Inc. WPS Power Development, L.L.C. v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.	Docket No. EL06-20-001
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Wisconsin Public Service Corp. Upper Peninsula Power Co. WPS Energy Services, Inc. WPS Power Development, L.L.C. v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.	Docket No. EL06-49-001
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Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.	Docket No. ER04-375-023 (not consolidated)
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ORDER GRANTING CLARIFICATIONS
AND DISMISSING REHEARING REQUEST

(Issued May 16, 2006)

1. In this order, we will grant the requested clarifications of the Commission's March 16, 2006 Order¹ that dismissed the complaints and denied the protest filed by Wisconsin Public Service Corporation Upper Peninsula Power Company, WPS Energy Services, Inc., and WPS Power Development LLC (WPS Companies) against the regional transmission organizations (RTOs), Midwest Independent Transmission System

¹ *Wisconsin Public Service Corp. v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,277 (2006) (March Order).

Operator, Inc. (Midwest ISO) and PJM Interconnection, L.L.C. (PJM). We will also dismiss, as moot, WPS Companies' alternative request for rehearing.

2. The March Order addressed WPS Companies' two complaints that Midwest ISO and PJM, in their informational filings of October 31, 2005 (October Informational Filing) and December 30, 2005, in Docket No. ER04-375 proceedings, had signaled abandonment of efforts to establish a joint and common market between them, contrary to the requirements of prior Commission orders. Similarly, WPS Companies protested the October Informational Filing. WPS Companies asked the Commission to order Midwest ISO and PJM to prepare a plan to establish a joint and common market between them that would include component items listed by WPS Companies.

3. The March Order dismissed the complaints and denied the protest because the pleadings were premature. In their joint answer to the complaints, the two RTOs stated their intent to perform, in 2006, a production cost study where they would assess the costs, benefits, and feasibility of the various identified elements (initiatives) of a joint and common market whose implementation was postponed because preliminary study had indicated they needed further cost/benefit analysis or RTO stakeholders had not supported them. These initiatives included essentially the component items listed by WPS Companies. The Commission therefore found it premature to decide, prior to completion of the study, on the merits of the specific component items that WPS Companies wanted the Commission to require the RTOs to implement. The March Order also stated that in initial Commission orders concerning the formation of a joint and common market, the Commission did not identify the elements that must be implemented, but left that determination to the RTOs and their stakeholders.²

4. WPS Companies request three clarifications or, in the alternative, rehearing of the March Order. (i) It does not limit WPS Companies' right to challenge all aspects of the forthcoming production cost study, including, without limitation, the right to dispute Midwest ISO and PJM's interpretation of the study's results, and the adequacy of the study's methodology and design to measure accurately all costs and benefits of implementing a comprehensive joint and common market or the costs and detriments of not so implementing. (ii) It does not preclude WPS Companies' contention that the Commission, either explicitly, in orders predating March 2005, or through acceptance of Midwest ISO and PJM commitments, has identified at least some required joint and common market characteristics, particularly those requiring internalization of loop flows and single unit commitment and system dispatch. (iii) It does not restrict WPS Companies' right to seek either the complete internalization of physical loop flows between PJM and Midwest ISO or the total elimination of the economic consequences of failing to internalize those loop flows within the Midwest ISO/PJM footprint.

5. We grant the requested clarifications. Upon completion of the forthcoming

² March Order at P 25, 27.

production study, we anticipate that Midwest ISO and PJM will file the study's conclusions and their proposed tariff revisions to implement certain joint and common market initiatives. WPS Companies, like other entities, will have the opportunity then to comment on all aspects of the study and the initiatives. The March Order did not decide the question of whether certain characteristics are required of a joint and common market, nor did it discuss the questions of physical loop flows either between PJM and Midwest ISO or within Midwest ISO. WPS Companies or other entities have the right to raise these issues before the Commission for decision when the forthcoming production study and proposed tariff revisions are filed or in other future proceedings.³ Since we are granting the clarifications, we will dismiss as moot WPS Companies' alternative request for rehearing.

The Commission orders:

WPS Companies' requests for clarifications of the Commission's March 16, 2006 order are hereby granted and the request for rehearing is hereby dismissed as moot.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

³*Cf. Duke Power*, 113 FERC ¶ 61,288 at P 15 (2005) (the Commission does not prejudge the outcome of future proceedings where a question may be at issue).